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Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Nigeria

1. The Committee considered the initial report of Nigeria (CRC/C/8/Add.26) at its 321st to 323rd meetings (See CRC/C/SR.321-323) held on 26 and 27 September 1996 and, at the 343rd meeting, held on 11 October 1996, adopted the following observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for sending a high-level delegation to discuss the report. The Committee notes that the report, although following the thematic structure for reporting set out in the general guidelines, was incomplete in its appreciation of the situation of children throughout the country. The Committee wishes to emphasize that the purpose of reporting is to indicate not only the measures adopted but also the progress made since the entry into force of the Convention and priorities identified for action, as well as the difficulties encountered in guaranteeing the rights provided for in the Convention.

B. Positive factors

3. The Committee welcomes the establishment of the National Human Rights Commission. The Committee also takes note of the establishment in 1994 of the National Child Rights Implementation Committee, inter alia to ensure the popularization of the Convention on the Rights of the Child and the OAU

Charter on the Rights and Welfare of Children; to review continuously the state of implementation of the Convention; to develop specific programmes and projects that will enhance the status of the Nigerian child; to collect and collate data on the implementation of the rights of the child; and to prepare and submit reports on the implementation of children's rights for the United Nations and the Organization of African Unity.

4. The Committee notes that the Government of Nigeria has prepared a national plan of action in response to the recommendations and goals enunciated in the Declaration and Plan of Action adopted by the World Summit for Children in September 1990.

5. The Committee appreciates the importance attached by the State party to improving the status and situation of women and the positive role this can play in contributing to the measures required to address the problems facing children in general and the girl child, in particular.

C. Factors and difficulties impeding the implementation of the Convention

6. The Committee recognizes that the situation in Nigeria is characterized by particular economic and socio-cultural complexities. It notes that Nigeria is the most populated African country and that it is multi-ethnic in composition with over 250 ethnic groups which have diverse cultures and languages. It is additionally noted that the persistence of certain harmful traditional practices and customs has had a negative bearing on the enjoyment of the rights guaranteed under the Convention.

D. Principal subjects of concern

7. The Committee expresses its deep concern that the rights of the child as provided for in the Convention have yet to be invested with effective legal status in Nigeria as the draft children's decree remains to be finalized and adopted. The Committee, while noting the very positive development represented by the drafting and revision of a children's decree, expresses its regret that a copy of the draft decree in its entirety was not made available to the Committee. The lack of such enabling legislation raises serious doubts as to the priority previously given to the rights of the child in Nigeria. The Committee raises these points in the light of the conclusion it reached from examining the State party's report and its dialogue with the delegation that certain legislation currently in force in Nigeria in relation to the rights of the child is not in conformity with various articles of the Convention, including article 1.

8. The Committee is concerned about the compatibility of customary law and laws passed at the regional and local levels and their application with the principles and provisions of the Convention.

9. The Committee notes with concern the apparent absence of adequate mechanisms for the determination of appropriate indicators as well, as for the collection of statistical data and other information on the status of children for use as bases for designing programmes to implement the Convention.

10. With respect to the implementation of various principles and provisions of the Convention, in particular those set out in its articles 3 and 4, the Committee is concerned that the impact of economic policy, as at present designed and pursued, may have led the Government to resort, on a more regular basis than it would wish, to temporary ad hoc funding measures to cover significant shortfalls in income for the realization of particular programmatic objectives. The Committee is concerned about the gap between the country's gross national product and the insufficiency of resources being made available for the implementation of the rights of the child, in particular in the areas of primary health care, primary education and other social services, as well as the protection of the most disadvantaged groups of children. Equally, the Committee remains concerned about the effectiveness of measures at present in place to give priority to projects for the implementation of the rights of the child, as well as to reduce any disparities between and within regions as regards the availability of resources for the realization of such projects.

11. The Committee is concerned that considerable progress is still required towards ensuring that all adults and children are aware of the rights of the child as contained in the Convention. Additionally, the Committee is concerned at the lack of training and education about the Convention for individuals working with or for children, such as police officers, chiefs of police, staff in institutions where children are detained, leaders at the community and ward levels and other government officials, as well as judges, lawyers, teachers, health workers and social workers.

12. The Committee is also concerned that the general principles of the Convention, as laid down in its articles 2, 3, 6 and 12, are not being applied and duly integrated into the implementation of all articles of the Convention. Concern is expressed at the status and situation of girl children and the insufficiency of measures to prevent and combat discrimination practised against them. Of equal concern to the Committee is the apparent absence of pro-active measures to combat discrimination against disabled children, children belonging to ethnic minorities and children born out of wedlock.

13. In the light of the provisions of article 3 of the Convention, the Committee is of the view that the Government has not yet fully developed a procedure to ensure that the "best interests of the child" guide the decision-making process. Consideration of the impact of various policy options on the enjoyment of the rights of the child should form an integral part of this process.

14. It is also the view of the Committee that traditional attitudes concerning the role children should play in the family, school, the community and society in general may be frustrating efforts to achieve the fuller participation of children, as envisaged in articles 12 and 13 of the Convention.

15. The Committee is concerned about the persistence of early marriage, child betrothals, discrimination in inheritance, widowhood practices and other harmful traditional practices. These practices are incompatible with the principles and provisions of the Convention. More particularly, the continuation of the practice of female genital mutilation is of deep concern to the Committee; although measures are being taken to address this practice, the Committee is of the view that they are insufficient. The problems of

violence against children and the physical abuse of children in the family, in schools, in the community and in society are also of major concern to the Committee.

16. The Committee views the trend of rising child mortality rates as a matter of deep concern. Despite the Government's stated policy of supporting primary health care programmes over those providing curative health care, the Committee views the access to quality health care services as unsatisfactory. Equally, the effectiveness of measures undertaken to avoid regional variations in the provision of health care services and medical supplies remains a cause of concern to the Committee. The Committee is also concerned about the problems encountered in providing access to safe water.

17. In view of the considerable incidence of poverty in the country and the insufficiency of the minimum wage in meeting basic needs, the Committee views the absence of social support to families, including single-parent families, especially female-headed households, as a matter of serious concern.

18. The State party's recognition of the importance of promoting education for all as a tool to improve the situation of children, especially girl children, is welcomed. However, the Committee remains concerned about the effectiveness of measures being taken to harmonize policy priorities in this area with adequate budgetary allocations.

19. The Committee expresses its regret that insufficient measures are being taken to address the problems of child abuse, including sexual abuse, and the sale and trafficking of children, child prostitution and child pornography.

20. It is the view of the Committee that current legislation with regard to the administration of juvenile justice and the institutionalization of children does not appear to conform to the principles and provisions of the Convention. In this regard, the provisions of national legislation which permit sentencing to capital punishment are incompatible with the provisions of article 37 (a) of the Convention.

21. The Committee is also concerned that the provisions of national legislation by which a child may be detained "at Her Majesty's Pleasure" may permit the indiscriminate sentencing of children for indeterminate periods. Furthermore, the Committee is worried about the provisions of national legislation which provide for the detention of children assessed to be "beyond parental control". The possibility that abandoned children or children living and/or working on the street would have such measures applied against them is of special concern to the Committee. It is the view of the Committee that these legislative measures do not appear to be compatible with the provisions of article 37 (b) of the Convention, which lays down that the arrest, detention or imprisonment of a child shall only be used as a measure of last resort and for the shortest appropriate period of time. Equally, the Committee is concerned about the application in practice of the provisions of section 3 of the Children and Persons Law may lead to the arbitrary detention of children, which is incompatible with the provisions and principles of the Convention.

22. The Committee notes with serious concern the low age of criminal responsibility for children in Nigeria, at present seven years of age, and that children even under the age of seven may be brought before the courts.

The Committee is also very much concerned about the adequacy of safeguards for all children brought before the courts, required under article 40 of the Convention.

23. Moreover, the Committee is seriously concerned about the conditions in places of detention for children, especially with regard to children's access to their parents, the medical services and educational programmes offered and the services in place to facilitate the recovery and rehabilitation of children. It is equally concerned about the inappropriateness and ineffectiveness of measures for the supervision and monitoring of the situation of children in detention, including for dealing with children's complaints of abuse or ill-treatment, and the lack of measures to ensure that these complaints are addressed in a serious and expeditious manner.

24. Furthermore, the Committee is deeply alarmed that the necessary safeguards against the excessive use of force by law enforcement officials or anyone else acting in this capacity are undermined by the provisions of section 73 of the Criminal Code. This may give rise to the violation of children's rights, including their right to life, and leads to impunity for the perpetrators of such violations. Therefore, it is the view of the Committee that the above-mentioned provisions of the Nigerian Criminal Code are incompatible with the principles and provisions of the Convention.

25. The Committee is of the view that insufficient measures have been taken for the implementation of article 32 of the Convention to prevent and combat the economic exploitation of children.

E. Suggestions and recommendations

26. The Committee recommends that the Government consider, on an urgent basis, the adoption of the children's decree, drafted in conformity with the principles and provisions of the Convention. The Committee welcomes the willingness of the delegation of the State party to provide the Committee with information regarding progress in relation to the draft children's decree and to submit to the Committee, as soon as possible, a copy of the full text of the draft decree.

27. The Committee also recommends that the State party, in undertaking a comprehensive review of the national legal framework and its conformity with the principles and provisions of the Convention account, should also take into account the compatibility of the system of customary law and regional and local laws with the articles of the Convention.

28. The Committee strongly recommends that the Government consider the possibility of undertaking a review of the effectiveness of measures being taken to implement the provisions of article 4 of the Convention in respect of the allocation of resources to the maximum extent possible for the implementation of the economic, social and cultural rights of the child. It is further suggested that such a review should be undertaken in the light of the priorities for the implementation of the Convention identified during the discussion of the report of Nigeria.

29. The Committee appreciates the willingness of the State party to undertake further measures to ensure that effective mechanisms are put in place for the implementation and monitoring of the Convention at all levels of

government including the ward level, through the mandate given to the Ministry of Women Affairs and Social Development. The Committee notes that the task of cooperating and coordinating with other mechanisms at different levels with regard to the monitoring of the implementation of the rights of the child is a challenging one and expresses the hope that further discussions within government circles and throughout the various levels of government on how best to achieve the priority objectives be undertaken on an urgent basis.

30. The Committee shares the view of the State party that effective education and awareness raising among all children concerning their rights should be undertaken and that an evaluation of the extent of awareness of the rights of the child among children and adults should be carried out. The Committee would like to suggest that such an awareness-raising programme should be extended to all adults and professionals working with or for children.

31. The Committee recommends that priority be given to the development of mechanisms for collecting statistical data and indicators disaggregated by gender, and rural/urban and ethnic origin as the bases for designing programmes for children.

32. It is the Committee's view that further efforts must be undertaken to ensure that the general principles of the Convention, in particular "the best interests of the child" and the participation of children, not only guide policy discussions and formulation, and decision-making, but also are integrated into the development and implementation of all projects and programmes.

33. The Committee wishes to emphasize that the general lack of financial resources cannot be used as a justification for neglecting to establish social security programmes and social safety nets to protect the most vulnerable groups of children. Accordingly, it is the opinion of the Committee that a serious review should be undertaken to determine the consistency of the economic and social policies being developed with the State party's obligations under the Convention, in particular articles 26 and 27, especially with respect to the establishment or improvement of social security programmes and other social protection.

34. The Committee recommends that as a high priority further measures be undertaken to prevent and combat discrimination, especially on the grounds of gender and ethnic origin, and differential access to services between the rural and urban population.

35. While acknowledging the State party's commitment to evaluating the effectiveness of policy implementation for disabled children, the Committee recommends that such policy should be reviewed to ensure that it reflects the general principles of the Convention, particularly as regards preventing and combating discrimination against disabled children.

36. The Committee shares the view of the State party that major efforts are required to address harmful practices such as early marriage, betrothals of children, female genital mutilation and abuse of children in the family. The Committee recommends that all legislation should be reviewed to ensure its compatibility with the eradication of such violations of children's rights and that campaigns be developed and pursued with the involvement of all sectors of

society with a view to changing attitudes in the country as to the non-acceptance of harmful practices. As far as female genital mutilation is concerned, all action necessary to eradicate this violation of children's rights must be taken on a priority basis. Public awareness and information campaigns must support education and advice on other family matters, including equal parental responsibilities and family planning in order to foster good family practices in line with the principles and provisions of the Convention.

37. The Committee recommends that improvement of access to and the quality of primary health care services be urgently undertaken. Major efforts to ensure the equal distribution of health services and medical supplies between and within regions are required immediately.

38. The Committee encourages the State party in its efforts to harmonize the informal and formal education systems, particularly with respect to the application of a national curriculum within all schools. Further steps should be taken to develop guidelines for the participation of all children in the life of the school in conformity with the principles and provisions of the Convention. The Committee encourages the Government to implement measures to improve school enrolment and school retention, especially for girls. A system for the regular evaluation of the effectiveness of these and other educational measures must be ensured. Measures must also be taken to ensure that discipline in school is administered in conformity with the provisions of article 28, paragraph 2 of the Convention. In addition, the Committee recommends that, in the light of the provisions of article 29 of the Convention and the United Nations Decade for Human Rights Education, the State party incorporate education on the rights of the child in school curricula, paying special attention to promoting tolerance among all peoples and groups. The State party may wish to consider requesting further international cooperation for the implementation of the measures identified for the application of the provisions of articles 28 and 29 of the Convention.

39. The Committee recommends that national legislation be brought into conformity with the provisions of articles 37, 39 and 40 of the Convention. National legislation must comply with the principle that capital punishment cannot be applied to children under the age of 18. The Committee also recommends that article 73 of the Criminal Code be abrogated and section 3 of the Children and Young Persons Law be reviewed as to its conformity with the Convention. The Committee welcomes the information provided by the State party that the new draft children's decree will set the age limit for criminal responsibility at 18. However, in view of the clarification provided regarding the system to be set in place, the Committee wishes to emphasize that the legal safeguards provided for in the relevant principles and provisions of the Convention, including those of article 40, must be provided to all children, whether the deprivation of their liberty results from the application of a welfare or a criminal procedure.

40. It is also the view of the Committee that the best interests of the child should prevail in proceedings concerning child victims of parental abuse, especially in deciding whether parents have the right to represent their child in such cases. Finally, the Committee wishes to emphasize that the Convention requires that detention be a measure of last resort and for the shortest appropriate period of time. The institutionalization and detention of children must be avoided as much as possible and alternatives to such practices must be developed and implemented. The Committee recommends that

measures be taken to establish an independent system for monitoring the situation of children in detention, whether in prisons or welfare institutions.

41. In view of the various concerns raised by the Committee with respect to the implementation of article 32 of the Convention, it wishes to highlight the importance of the State party ensuring that all children have access to health care, that education be made compulsory as a measure to prevent the economic exploitation of children and that further measures should be undertaken to combat exploitation, such as that of child domestic workers, including legislative measures to ensure the effective protection of the child against the performance of any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or full and harmonious development.

42. In the light of articles 34 and 35 of the Convention, the Committee encourages the State party in its efforts to follow up at both the national and regional levels on the measures required to prevent and combat the sexual exploitation of children.

43. The Committee recommends that further measures be taken with a view to ensuring the physical and psychological recovery and rehabilitation of the child victims of abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention.

44. The Committee recommends that the State party make widely available to the public its report, the records of the discussion of that report in the Committee and the concluding observations adopted by the Committee.